

REMARKS

The present request is submitted in response to the Office Action dated May 27, 2009, which set a three-month period for response. Filed herewith is a Request for a One-month Extension of Time, making this amendment due by September 27, 2009.

Claims 1-10 are pending in this application.

In the Office Action, claims 1-5 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,010,651 to Techter et al in view of U.S. Patent No. 4,205,572 to Welner. Claims 6 and 8-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Techter in view of Welner and in further view of U.S. Patent No. 7,255,144 to Smith.

In the present amendment, the claims have been amended to more clearly define the present invention over the cited references by clarifying that the saw assembly does not have a handle, but that the handle is fixed to the footplate. The Applicants respectfully submit that the amended claims are not rendered obvious by the cited references, whether viewed alone or in combination.

As argued previously, the present invention offers substantial advantage and a completely different solution than the prior art regarding how to prevent injuries of an operator of a circular power saw. The present invention provides structure and function that withdraw the circular saw blade instantly behind the foot plate and into the cover/housing during any occurrence of kick-back, so no cutting edge that could harm the operator is exposed.

The primary reference to Techter, in contrast, provides no teaching or structure that prevents kick-back. Rather, Techter discloses only a common saw which can injure an operator during kick-back.

Welner only discloses that the power to the circular blade can be interrupted, but there is no withdrawal of the aw blade; rather, it remains exposed, so that even the more slowly turning blade may injure the user very badly.

Amended claims 1, 5, 7, and 9 define an important feature of the present invention with regard to the cited references: the saw assembly 12 does not have any handle. Rather, the only handle 24 is fixed to the foot plate for guiding by the user of the circular saw. This advantageous design prevents the user of the circular saw from having to place any holding action on the saw assembly during sawing, so that the saw assembly is free to decouple and slip behind the footplate in the event of a kick-back.

Thus, while the power saw might kick-back, no harm will come to the user, since the only handle is fixed to the footplate. Only in this manner can the saw assembly decouple relative from the footplate to move extremely quickly behind the foot plate when kick-back occurs, undisturbed by any holding-action of the user. If the saw assembly of the present invention had a handle, as shown in the cited references, the user obviously would hold it, the kick-back effect would be amplified, and the user would be in great danger of being cut by the saw blade.

The claims as amended therefore are not obvious over the cited reference combinations. It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima

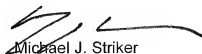
facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01).

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

Here, none of the cited references disclose or suggest that "no handle" is provided on the saw assembly, but only on a foot plate that is decouplable from the saw assembly in the event of a kick-back.

The application in its amended state is believed to be in condition for allowance. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700